

EXHIBIT B

1 **UNITED STATES DISTRICT COURT**
2 **WESTERN DISTRICT OF LOUISIANA**
3 **LAKE CHARLES DIVISION**

4 THE STATE OF LOUISIANA, By and
5 through its Attorney General, JEFF
6 LANDRY, et al.,

7 *Plaintiffs,*

8 v.

9 JOSEPH R. BIDEN, JR., in his official capac-
10 ity as President of the United States, et al.,

11 *Defendants,*

12 and

13 HEALTHY GULF, et al.,

14 *Intervenor-Defendants.*

Civ. No.: 2:21-cv-00778-TAD-KK

Judge: Terry A. Doughty

Mag. Judge: Kathleen Kay

15 **DECLARATION OF TAYLOR MCKINNON**

16 I, Taylor McKinnon, declare as follows:

17 1. The facts set forth in this declaration are based on my personal knowledge. If
18 called as a witness in these proceedings, I could and would testify competently to these facts.

19 2. I am the Senior Public Lands Campaigner at the Center for Biological Diversity
20 (“CBD”), and in this role, I work to protect public lands and endangered species in the United
21 States with a focus on curbing federal fossil fuel development on public lands. CBD is a
22 membership based 501(c)(3) non-profit corporation that is incorporated in California, whose
23 primary mission is to protect threatened and endangered species and their habitats both in the
24 United States and abroad. CBD relies upon the voluntary contributions of members, supporters,
25 and donors to support its operations and its members and supporters rely on CBD to advocate for
26 them on behalf of CBD’s organizational mission.

1 3. CBD and its members include individuals with varying interests in wildlife
2 species and their habitat ranging from scientific, professional, and educational, to recreational,
3 aesthetic, moral, and spiritual. Further, CBD's members enjoy, on an ongoing basis, the
4 biological, scientific, research, educational, conservation, recreational, and aesthetic values of the
5 regions inhabited by these species, including the areas impacted by this litigation. CBD's
6 members observe and study native species and their habitat, and derive professional, scientific,
7 educational, recreational, aesthetic, inspirational, and other benefits from these activities and
8 have an interest in preserving the possibility of such activities in the future. CBD's members
9 have participated in efforts to protect and preserve natural areas, including the habitat essential to
10 the continued survival of native species, and to address threats to the continued existence of these
11 species.

12 4. CBD has an interest in ensuring the preservation, protection, and restoration of
13 biodiversity, native species, ecosystems, climate conditions, public lands and waters, and public
14 health through science, policy, and environmental law. Based on the understanding that the
15 health and vigor of human societies and the integrity and wildness of the natural environment are
16 closely linked, CBD is working to secure a future for animals and plants hovering on the brink of
17 extinction, for the ecosystems they need to survive, and for a healthy, livable future.

18 5. CBD's activities include public education, advocacy, litigation to enforce
19 environmental laws, and participation in the government's decision-making process at the
20 administrative level. In pursuit of its mission, CBD has undertaken numerous actions to help
21 protect species affected by oil and gas activities including sperm whales, humpback whales,
22 beaked whales, North Atlantic right whales, Gulf of Mexico Bryde's whales (now known as
23 Rice's whales), Cook Inlet beluga whales, polar bears, loggerhead sea turtles, leatherback sea
24 turtles, Kemp's Ridley sea turtles, and corals, among others. CBD has, for example, petitioned
25 the federal government and taken legal actions to protect many of these species under the
26 Endangered Species Act ("ESA") or to designate critical habitat.

1 6. CBD has actively campaigned for several years to persuade the Bureau of Land
2 Management (“BLM”) and Bureau of Ocean Energy Management (“BOEM”) to comply with
3 federal environmental laws, such as the National Environmental Policy Act (“NEPA”) and the
4 ESA, as well as BLM’s own mandate under the Federal Land Policy and Management Act
5 (“FLMPA”) to manage public lands “without permanent impairment of the productivity of the
6 land and the quality of the environment,” and BOEM’s mandate under the Outer Continental
7 Shelf Lands Act to “balance” offshore oil development “with protection of the human, marine,
8 and coastal environments” and ensure such development “meet[s] the Nation’s energy needs as
9 rapidly as possible.”

10 7. CBD has also filed litigation to protect species from oil spills, water pollution,
11 noise pollution, and other harms from the oil and gas industry. For example, CBD has filed
12 litigation challenging BOEM’s approval of the use of offshore fracking in federal waters off
13 California without adequately analyzing the risks to the environment or endangered species, and
14 litigation challenging rules that allow the take of marine mammals incidental to oil and gas
15 activities in Cook Inlet. CBD has also filed litigation against BOEM for holding lease sales in the
16 Gulf of Mexico without first carefully studying the environmental impacts of oil and gas
17 activities as required by NEPA. CBD has also, where substantiated, filed administrative protests
18 under BLM’s regulations and manual where BLM’s federal oil and gas lease sales have violated
19 federal environmental protection laws, such as NEPA and the ESA. The leasing of these public
20 lands pending the federal government’s commitment to conduct a comprehensive review of oil
21 and gas leasing and permitting, and without following NEPA and its implementing regulations,
22 would pose a threat to sensitive species and their habitat, public lands and waters, and public
23 health and safety.

24 8. CBD has over 84,300 members, including those living in Alaska, New Mexico,
25 Texas, Oklahoma, Utah, Montana, the Dakotas, Wyoming, Colorado, and the Eastern States
26 (including Mississippi, Michigan, Louisiana, Alabama, Arkansas, Ohio, Pennsylvania, and
27 Kentucky), on or near public lands where oil and gas development is occurring or has been
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1 proposed. For example, some members reside on “split estate” lands where the federal
2 government owns the minerals underlying their property, or they live in close proximity to
3 federal lands where oil and gas development has been proposed. Numerous CBD members have
4 also visited these lands for recreational, scientific, educational, and other pursuits and intend to
5 continue to do so in the future, and are particularly interested in protecting the many native,
6 imperiled, and sensitive species and their habitats that may be affected by the BLM’s and
7 BOEM’s oil and gas leasing. Numerous CBD members also regularly visit the shores and waters
8 of Cook Inlet and the Gulf of Mexico to recreate, look for, and observe various species of
9 wildlife. CBD members, for example, regularly ski, hike, or run along Cook Inlet looking for
10 Cook Inlet beluga whales. They have enjoyed seeing these animals on numerous occasions but
11 worry that noise pollution, oil spills, and other threats from expanded oil and gas activity in the
12 Inlet will make it harder for these critically endangered whales to survive and recover, interfering
13 with their ability to see these animals in the future. Other CBD members recreate in, and along
14 the shores of, the Gulf of Mexico. They go there to look for sea turtles and other animals and
15 intend to do so in the future. They worry that oil spills, water pollution, and greenhouse gas
16 emissions from oil and gas activity will harm sea turtles, including highly imperiled Kemp’s
17 Ridley sea turtles, and their ability to observe these and other sea turtles nesting and swimming
18 in the ocean.

19 9. I regularly use public lands for recreational, artistic, scientific, and familial
20 purposes. I frequently travel to, explore, fish, bike, snowboard, run, hike, observe wildlife, and
21 camp on public lands throughout the western United States. I usually do so with family and
22 friends. I am an amateur landscape, nature, and wildlife photographer. Most of my subjects are
23 nature scenes and wildlife on public lands. Industrialization and pollution from oil and gas
24 development harms my use and enjoyment of public lands. I have encountered extensive oil and
25 gas industrialization while visiting public lands in southern and north-eastern Utah; in
26 northwestern New Mexico; in southeastern Wyoming; and along Colorado’s western slope. This
27 industrialization, because of its impacts to scenery and ecosystems, has precluded my camping,
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1 photography, and other uses of public lands. For example, I choose not to camp near oil and gas
2 development because industrialization is unsightly, and the associated truck traffic, dust, and
3 noise is bothersome. I do not photograph nature scenes that include oil and gas development
4 because its industrialization often ruins otherwise aesthetically pleasing scenes. Oil and gas
5 development has made it extremely difficult to photograph greater sage-grouse, whose
6 populations have crashed at the hand of development, making the birds rare and vulnerable to
7 human disturbance. Despite always visiting public lands with my camera and bird photography
8 lens, I have only photographed mating grouse in Nevada's Monitor Valley which, though
9 undeveloped, was ironically slated for oil and gas leasing. Even from far away, lights from oil
10 and gas development have foreclosed my ability to photograph western public lands under a
11 night sky because those scenes would have been marred by oil and gas light pollution. For these
12 and other reasons, I choose to avoid visiting public lands with oil and gas development, which
13 constrains the places, routes, and activities that would otherwise choose.

14 10. In addition, many CBD members use domestic water wells or streams for
15 drinking water, stock watering, fishing, and other purposes that may be impacted by nearby
16 federal oil and gas development.

17 11. CBD regularly participates in BLM and BOEM's NEPA processes for federal oil
18 and gas lease sales. As part of this participation, CBD provides public comments to identify
19 issues that need to be addressed and analyzed in NEPA documents ("scoping comments"). CBD
20 also reviews and provides comments on BLM's and BOEM's draft Environmental Assessments
21 ("EA") and Finding of No Significant Impact ("FONSI"), or draft Environmental Impact
22 Statements ("EIS").

23 12. CBD's advocacy in federal oil and gas leasing processes focus on three principal
24 areas of concern. The first is on attempting to mitigate impacts to threatened, endangered, and
25 sensitive species and their habitats from oil and gas leasing activity, by providing scientific and
26 geographic information regarding species and habitats that may be adversely affected by oil and
27 gas development.

1 13. The second focus of CBD's federal oil and gas leasing activity concerns efforts to
2 ensure that planning, leasing, and environmental analysis processes adequately consider
3 scientific and other information regarding the air, water, seismic, and public health impacts of
4 unconventional drilling technologies and methods such as hydraulic fracturing.

5 14. The third aspect of the CBD's leasing advocacy concerns efforts to require
6 environmental analysis of the greenhouse gas emission consequences of federal fossil fuel
7 leasing decisions, and to ensure that public lands and offshore waters energy policies consider
8 the effects relating to climate change.

9 15. The 2021 pause in oil and gas leasing and announced comprehensive review
10 greatly enhances CBD and its members' ability to obtain relevant information regarding the
11 lands and resources that may be affected by proposed oil and gas lease sales.

12 16. Since 2014, CBD has actively participated in BLM oil and gas leasing process by
13 commenting on proposed sales and Environmental Assessments, filing administrative protests of
14 proposed lease sales, and engaging in scientific, educational, and public outreach efforts to
15 inform the public regarding the climate and other environmental consequences of BLM's oil and
16 gas leasing programs.

17 17. From 2017 to 2021, CBD submitted comments on and/or filed formal protests
18 against NEPA plans and decisions approving the following onshore oil and gas lease sales in the
19 Lower 48, listed here by BLM State Office and lease sale date:

Colorado, November 2015	Colorado, March 2017
Utah, February 2016	Colorado, June 2017
New Mexico, April 2016	Colorado, December 2017
Colorado, May 2016	Eastern States, March 2017
Montana, May 2016	Eastern States, September 2017
Dakotas, July 2016	Eastern States, December 2017
New Mexico, July 2016	Montana, June 2017
Eastern States, September 2016	Montana, December 2017
Colorado, November 2016	New Mexico, June 2017
Utah, November 2016	Nevada, March 2017
New Mexico, January 2017	Nevada, June 2017
New Mexico, April 2017	Nevada, September 2017

1	Nevada, December 2017	Wyoming, June 2019
2	Utah, September 2017	Montana, July 2019
3	Utah, December 2017	Colorado, September 2019
4	Wyoming, June 2017	Eastern States, September 2019
5	Wyoming, September 2017	Montana, September 2019
6	Arizona, September 2018	Utah, September 2019
7	Colorado, March 2018	Wyoming, September 2019
8	Colorado, June 2018	New Mexico, November 2019
9	Colorado, September 2018	Eastern States, December 2019
10	Eastern States, March 2018	Montana, December 2019
11	Eastern States, Sept 2018	Utah, December 2019
12	Montana, March 13, 2018	Wyoming, December 2019
13	Nevada, March 13, 2018	New Mexico, February 2020
14	Nevada, June 2018	Colorado, March 2020
15	Nevada, September 2018	Eastern States, March 2020
16	Nevada, December 2018	Montana, March 2020
17	Utah, March 20, 2018	Utah, March 2020
18	Utah, June 2018	Wyoming, March 2020
19	Utah, September 2018	New Mexico, August 2020
20	Wyoming, March 2018	Colorado, September 2020
21	Wyoming, June 2018	Eastern States, September 2020
22	Wyoming, September 2018	Montana, September 2020
23	Wyoming, December 2018	Utah, September 2020
24	Colorado, March 2019	Wyoming, September 2020
25	Montana, March 2019	New Mexico, October 2020
26	New Mexico, March 2019	California, December 2020
27	Utah March, 2019	Colorado, December 2020
28	Wyoming, February 2019	Eastern States, December 2020
	Wyoming, March 2019	Nevada, December 2020
	Colorado June 2019	Utah, December 2020
	Eastern States, June 2019	Wyoming, December 2020
	Nevada, June 2019	New Mexico, January 2021
	Utah, June 2019	

18. From 2017 to 2021, CBD submitted comments on and/or filed formal protests against NEPA plans and decisions approving the following offshore oil and gas lease sales and plans:

- Preliminary Revised 5-Year OCS Leasing Program for 2007–2012—Comments submitted on May 3, 2010;
- Proposed 5-Year OCS Oil and Gas Leasing Program for 2012– 2017—Comments submitted on Feb. 8, 2012; Environmental Impact Statement on Gulf of Mexico 2017–2022 Lease Sales—Comments submitted on March 29, 2015;

- 2017–2022 National OCS Draft Proposed Program—Comments submitted on March 30, 2015;
- Draft Supplemental Environmental Impact Statement on Lease Sale 247 in the Central Planning Area of the Gulf of Mexico—Comments submitted on Apr. 11, 2016;
- Draft Programmatic Environmental Impact Statement for the National OCS Oil and Gas Leasing Program: 2017–2022—Comments submitted on May 2, 2016;
- Draft Environmental Impact Statement for OCS Oil and Gas Leases in the Gulf of Mexico from 2017–2022—Comments submitted on June 6, 2016;
- 2017– 2022 OCS Proposed Program—Comments submitted on June 16, 2016;
- Scoping for Proposed Gulf of Mexico OCS Oil and Gas Lease Sales 250 and 251—Comments submitted on Sept. 19, 2016;
- Draft Environmental Impact Statement for OCS Lease Sale 244 in Cook Inlet, Alaska—Comments submitted on Sept. 22, 2016;
- Request for Information on New Five-Year National OCS Oil and Gas Leasing Program: 2019–2024—Comments submitted on Aug. 17, 2017;
- National OCS Oil and Gas Leasing Draft Proposed Program—Comments submitted on Mar. 9, 2018;
- Scoping for Proposed 2019 OCS Lease Sale in Beaufort Sea—Comments submitted on Jan. 4, 2019; and
- Scoping for the Draft Environmental Impact Statement for OCS Lease Sale 258 in Cook Inlet, Alaska—Comments submitted on Oct. 13, 2020.

19. BLM and BOEM denied many, but not all, of the CBD concerns and protests described above and moved forward with the lease sales onshore and offshore.

20. Most recently, CBD submitted comments to BLM and BOEM in response to the public comment period of the pause on oil and gas leasing. CBD’s comments urged the agencies to conduct a comprehensive programmatic EIS on the federal fossil fuel leasing program and to conduct a comprehensive consultation on the effects of the program on threatened and endangered species, and their critical habitats under the ESA. CBD also urged the agency to permanently end new oil and gas leasing, consider cancelling certain leases, and phase-out existing activities,

1 including by prohibiting certain practices that prolong offshore drilling such as offshore fracking.
2 Additionally, CBD has urged the administration to pause all permitting of oil and gas activity
3 pending completion of a comprehensive EIS and determination that continued leasing and
4 permitting would be consistent with reducing greenhouse gas emissions by 50 percent by 2030
5 and to near zero by 2040 and with limiting climate change to 1.5 degrees Celsius.

6 21. BLM and BOEM's decisions to pause oil and gas leasing or to postpone lease sales
7 has benefitted CBD's mission and its members both procedurally and substantively. This includes
8 the decision to postpone the March 2021 lease sale in the Gulf of Mexico.

9 22. Decisions to postpone or defer leasing for additional environmental review and/or
10 consultation increase the likelihood of adequate consideration of environmental impacts from
11 leasing and/or consideration of impacts to affected communities.

12 23. A decision to refrain from leasing lease reduces the likelihood of contamination of
13 surface water and groundwater from spills from chemical and waste transport; chemical storage
14 leaks; breaches in wastewater pits; leaching from landfills that receive drilling and fracking solid
15 wastes; injection of fracking waste underground or into the ocean; and migration via abandoned
16 or improperly constructed wells, natural faults, or intentionally created fractures. The decision
17 also reduces the harmful impacts of water depletion on biodiversity, local ecosystems, and the
18 availability of water to communities. Additionally, it reduces the likelihood of noise pollution that
19 is harmful to a wide variety of wildlife.

20 24. CBD members also have economic and personal interests in BLM's and/or
21 BOEM's decision not to lease. Because their homes are in close proximity to federal oil and gas
22 development, surface contamination, air pollution, ocean or aquifer impacts from hydraulic
23 fracturing (or "fracking") or inadequate well construction can directly impact their property
24 values and require significant expenditures for substitute sources of drinking water. Furthermore,
25 due to the heavy and frequent use of chemicals, proximity to fracked wells is associated with
26 higher rates of cancer, birth defects, infant mortality, and acute health effects for nearby residents
27 who must endure long-term exposure including carcinogenic, reproductive, and endocrine
28 disruption effects. BLM's and/or BOEM's decision not to lease would reduce those impacts. It

1 also reduces harm to species already threatened by oil and gas activity and/or climate change, like
2 Cook Inlet beluga whales, Rice's whales, sea turtles, and corals.

3 25. If the State of Louisiana and the other Plaintiffs in this case succeed in requiring
4 BLM and/or BOEM to offer for lease lands and waters for oil and gas exploration and
5 development, that would adversely impact the human environment and resources, all of the
6 aforementioned benefits to CBD members would be lost.

7 26. Although CBD has an interest in defending BLM's and BOEM's decision not to
8 lease or make available certain parcels, the current Defendants in this action do not adequately
9 represent CBD's interest. CBD has requested that BLM and/or BOEM analyze numerous
10 significant impacts likely to result from the leasing of the public lands and waters for oil and gas
11 development, including but not limited to the impacts of fracking and other unconventional well
12 stimulation techniques on water resources, human health and safety, climate change, wildlife and
13 wildlife resources. However, many of these potential impacts have been omitted from or
14 inadequately considered in BLM's and BOEM's NEPA analyses for every oil and gas lease sale
15 on which CBD has provided comment or protested. Many of CBD's protests have been dismissed
16 or denied by BLM. BOEM has also repeatedly dismissed CBD's concerns raised in various
17 comment letters.

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19 I declare under penalty of perjury that the foregoing is true and correct.

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21 Executed on April 26, 2021 in Flagstaff, Arizona.

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Taylor McKinnon